

Dated: April 18, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-9982 Filed 4-26-91; 8:45 am]

BILLING CODE 4310-GG-M

#### 43 CFR Public Land Order 6852

[NV-930-4214-10; Nev-051745]

#### Modification of the Secretarial Order of June 4, 1930

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order modifies a Secretarial order insofar as it affects 9.28 acres of public land withdrawn for the Bureau of Reclamation's Colorado River Storage Project. This action will open the land to a proposed sale to resolve a trespass situation in compliance with a court ordered stipulated agreement in a lawsuit. The land remains closed to all other forms of appropriation under the public land laws including the mining laws but has been and will remain open to mineral leasing.

**EFFECTIVE DATE:** April 29, 1991.

**FOR FURTHER INFORMATION CONTACT:** Mary Clark, BLM, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520, 702-785-6530.

#### SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial order of June 4, 1930 is hereby modified to permit sale of the following described land:

#### Mount Diablo Meridian

T. 30 S., R. 64 E.,

Sec. 31, lots 5 to 12, inclusive.

The area described contains 9.28 acres in Clark County.

2. Effective immediately, subject to valid existing rights, the land shall be opened to sales under section 203 of the Federal Land Policy and Management Act in compliance with the United States District Court, District of Nevada, Order for Compromise Settlement and for Dismissal with Prejudice in the case, *Nancy Lynn Kidwell, et al., v. United States of America, ex rel. United States Department of Interior, Bureau of Land Management, et al.*

Dated: April 18, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-9981 Filed 4-26-91; 8:45 am]

BILLING CODE 4310-HC-M

#### 43 CFR Public Land Order 6853

[ID-943-4214-10; IDI-17810]

#### Partial Revocation of Secretarial Order Dated October 9, 1928; Idaho

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order revokes a Secretarial Order insofar as it affects 14.50 acres of National Forest System lands withdrawn for the Bureau of Reclamation's Boise Reclamation Project. The lands are no longer needed for reclamation purposes. This action will open the lands to surface entry and mining. The lands have been and will remain open to the mineral leasing laws.

**EFFECTIVE DATE:** May 29, 1991.

**FOR FURTHER INFORMATION CONTACT:** Larry Lievsay, BLM Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706 (208) 334-1735.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order dated October 9, 1928, which withdrew land for the Bureau of Reclamation's Boise Project, is hereby revoked insofar as it affects the following described lands:

#### Boise Meridian

T. 2 N., R. 5 E.,

Sec. 17, that portion of Riparian Placer Segregation Survey within lot 1;

Sec. 18, lot 4.

The areas described aggregate 14.50 acres in Elmore County.

2. At 9 a.m. on May 29, 1991, the lands described in paragraph one shall be open to such forms of disposition as may by law be made of National Forest System land, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law, including location and entry under the United States mining laws. Appropriation of lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a

right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts. The lands have been and will remain open to the mineral leasing laws.

Dated: April 18, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-9990 Filed 4-26-91; 8:45 am]

BILLING CODE 4310-GG-M

#### FEDERAL EMERGENCY MANAGEMENT AGENCY

#### 44 CFR Part 15

[Regulation Identifier Number: 3067-AB65]

#### Conduct in Buildings and on Grounds at the National Emergency Training Center

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Final rule.

**SUMMARY:** This rule prescribes the standards of conduct for persons entering onto the premises at the FEMA National Emergency Training Center (NETC) in Emmitsburg, Maryland. Currently there is no standard of conduct for visitors, contractors, guests or students at NETC. This rule is adapted from the General Services Administration regulations concerning Conduct on Federal Property, is revised to be agency specific and is applicable to the NETC facility owned by FEMA and under its custody and control. The implementation of this rule at NETC will provide a basis for corrective action in instances of violation(s) of the standard of conduct at the NETC facility.

**EFFECTIVE DATE:** June 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Ronald P. Face, Jr., Director, Office of NETC Operations and Support, U.S. Fire Administration, Federal Emergency Management Agency, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, Maryland 21727, Telephone (301) 447-1223.

**SUPPLEMENTARY INFORMATION:** FEMA published a proposed rule in the *Federal Register* on October 18, 1990, (55 FR 42216) with comments due on or before December 17, 1990. No comments were received.

This rule is essentially the same as the proposed rule. Minor changes have been made to conform this rule to internal



delegations concerning operations at NETC.

FEMA operates its National Emergency Training Center in Emmitsburg, Maryland. This regulations is administrative and, as such is categorically excluded from the requirements for environmental assessments contained in 44 CFR part 10.

This rule is not a major rule as defined in Executive Order 12291, nor will it have a significant economic impact on a substantial number of small entities. Hence, regulatory impact analyses are not necessary.

This rule does not contain information requirements that are subject to the Paperwork Reduction Act of 1980 (44 USC 3501, et seq.) and OMB implementing regulations 5 CFR 1320.

In promulgating this rule, FEMA has considered the Executive Order 12612 on Federalism. The purpose of the order is to assure the appropriate division of governmental responsibilities between national government and the States. The problem dealt with in this rule is national in scope.

#### List of Subjects in 44 CFR 15

Federal buildings and facilities;  
Penalties; Security measures.

Accordingly, chapter 1, part 15, title 44, Code of Federal Regulations is amended by designating existing §§ 15.1 through 15.15 as subpart A under the following heading and adding a new subpart B to part 15 to read as follows:

#### Subpart A—Conduct at the FEMA Special Facility

#### Subpart B—Conduct at the National Emergency Training Center

Sec.

- 15.31 Purpose.
- 15.32 Applicability.
- 15.33 Inspection.
- 15.34 Preservation of property.
- 15.35 Conformity with signs and directions.
- 15.36 Disturbances.
- 15.37 Gambling.
- 15.38 Alcoholic beverages and narcotics.
- 15.39 Soliciting, vending and debt collection.
- 15.40 Distribution of handbills.
- 15.41 Photographs and other depictions.
- 15.42 Dogs and other animals.
- 15.43 Vehicular and pedestrian traffic.
- 15.44 Weapons and explosives.
- 15.45 Penalties.
- 15.46 Other laws.

Authorities: EO 11222, EO 12148, Federal Fire Prevention and Control Act of 1974, PL 93-498, 15 USC 2201, et seq.

#### § 15.31 Purpose.

To set forth the National Emergency Training Center (NETC) policy and procedure relating to the NETC grounds and buildings and to the conduct of all

persons entering, while on, and leaving the NETC, and actions to be taken for violation of these rules and regulations.

#### § 15.32 Applicability.

This subpart applies to all the property known as the "National Emergency Training Center," located on 16825 South Seton Avenue in Emmitsburg, Maryland, which is owned, operated and controlled by the Federal Emergency Management Agency (FEMA) and to all persons entering, while on, or leaving the property.

#### § 15.33 Inspection.

All vehicles, packages, handbags, briefcases, and other containers brought into, while on, or being removed from NETC may be subject to inspection. A full search of a person may accompany an arrest or apprehension.

#### § 15.34 Preservation of property.

The improper disposal of rubbish at NETC, the willful destruction of or damage to property, the theft of property, the creation of any hazard to persons or things, the throwing of articles of any kind from or at a building, or the climbing upon the roof or any part of the building is prohibited.

#### § 15.35 Conformity with signs and directions.

Persons in and on the NETC shall at all times comply with official signs of a prohibitory, regulatory, or directory nature and with the direction of the security force or other authorized individuals.

#### § 15.36 Disturbances.

Any unwarranted loitering, disorderly conduct, or other conduct at NETC which creates loud or unusual noise or a nuisance; which unreasonably obstructs the usual use of classrooms, dormitory rooms, entrances, foyers, lobbies, corridors, offices, elevators, stairways, roadways or parking lots; which otherwise impedes or disrupts the performance of official duties by Government employees or Government contractors; which interferes with the delivery of the educational program; or which prevents the general public from obtaining the services provided on the property in a timely manner, is prohibited.

#### § 15.37 Gambling.

Participating in games for money or other personal property or the operating of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of numbers tickets at NETC is prohibited.

#### § 15.38 Alcoholic beverages and narcotics.

Operating a motor vehicle at NETC by a person under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines as defined in the Annotated Code of Maryland, Transportation Article, Section or Title 21902 is prohibited. Entering upon, or while on the property under the influence of or using or possessing any narcotic drug, hallucinogen, marijuana, or barbiturate, or amphetamine is prohibited. This prohibition shall not apply in cases where the drug has been prescribed for a patient by a licensed physician. Entering upon the property, or being on the property under the influence of alcoholic beverages as defined in the Annotated Code of Maryland, Transportation Article, Section or Title 21902 is prohibited. Bringing alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates or amphetamines onto the premises of NETC is prohibited unless the individual has been authorized. The use of alcoholic beverages on the property is prohibited except in the Student Center and other locations and occasions as authorized in writing by the Administrator, U.S. Fire Administration, FEMA, or his/her designee.

#### § 15.39 Soliciting, vending and debt collection.

Soliciting alms and contributions, commercial or political solicitation and vending of all kinds, displaying or distributing commercial advertising, or collecting private debts at NETC are prohibited. This does not apply to:

(a) approved national or local fund drives for health, welfare, or other purposes as authorized by the "Manual on Fund Raising Within the Federal Service" issued by the U.S. Office of Personnel Management and sponsored or approved by the occupant agencies (all such drives must have the prior approval of the Administrator, U.S. Fire Administration, FEMA or his/her designee);

(b) concessions or personal notices posted by employees on authorized bulletin boards; and

(c) solicitation of labor organization membership or dues authorized by occupant agencies under the Civil Service Reform Act of 1978 title 5, United States Code, section 1101.

#### § 15.40 Distribution of handbills.

The distribution of materials such as pamphlets, handbills, and/or flyers, and the displaying of placards or posting of materials on bulletin boards or elsewhere at NETC is prohibited except



as authorized above or when such distribution or displays are conducted as part of authorized government activity.

#### § 15.41 Photographs and other depictions.

Photographs may be taken inside classroom or office areas only with the consent of the occupants. Except where security regulations apply or a Federal court order or rule prohibits it, photographs may be taken in entrances, lobbies, foyers, corridors, or auditoriums when used for public meetings. Subject to the foregoing prohibitions, photographs for advertising and commercial purposes may be taken only with written permission of the Director, Office of NETC Operations and Support, U.S. Fire Administration or other authorized official where the photographs are to be taken.

#### § 15.42 Dogs and other animals.

Dogs and other animals, except for seeing eye dogs or other guide dogs, shall not be brought into the buildings at NETC for other than official purposes.

#### § 15.43 Vehicular and pedestrian traffic.

(a) Drivers of all vehicles entering or while at NETC shall drive in a careful and safe manner at all times and shall comply with the parking and vehicle registration/requirements (except parking of four hours or less), signals and directions of security personnel and all posted traffic signs;

(b) The blocking of entrances, driveways, walks, loading platforms, or fire hydrants on the property is prohibited; and

(c) Parking without authority, parking in unauthorized locations or parking contrary to the direction of posted signs is prohibited. Vehicles parked in violation, where warning signs are posted, shall be subject to removal at the owner's risk and expense. The Administrator, U.S. Fire Administration or his/her designee may supplement this paragraph from time to time by issuing and posting such specific traffic directives as may be required. When issued and posted, such directives shall have the same force and effect as if made a part hereof. Proof that a motor vehicle was parked in violation of these regulations or other directives may be taken as evidence that the registered owner was responsible for the violation.

#### § 15.44 Weapons and explosives.

No person entering or while at NETC shall carry or possess firearms, other dangerous or deadly weapons, explosives, or items intended to be used to fabricate an explosive or incendiary device, either openly or concealed,

except for official purposes (i.e., Federal, State or local law enforcement; when authorized by the Administrator, U.S. Fire Administration; or his designee or contract security forces when authorized by the contract project officer) and in accordance with FEMA policy governing the possession of firearms.

#### § 15.45 Penalties.

(a) Misconduct: Any misconduct will be processed and disposed of in accordance with FEMA/NETC policy or Instruction.

(b) Parking violations: Vehicles parked in violation of State law, FEMA or NETC Instruction shall be subject to towing at the owner's expense.

#### § 15.46 Other Laws.

Nothing contained in this subpart shall be construed to abrogate any other Federal laws or any State and local laws and regulations applicable to the National Emergency Training Center premises. This subpart supplements the penal provisions of title 18, United States Code, relating to Crimes and Criminal Procedure, which apply without regard to the place of the offense and those penal provisions which apply in areas under the special maritime and territorial jurisdiction of the United States, as defined in 18 U.S.C. 7. However, the content of this subpart supersedes those provisions of State law which are made Federal criminal offenses by virtue of the Assimilated Crime Act (18 U.S.C. 13) to the extent that they are in conflict with this subpart. State and local criminal laws are applicable as such only to the extent that authority in that regard has been reserved to the State by the State consent or cession statute or vested in the State by Federal statute.

Dated: April 16, 1991.

Olin L. Greene,

Administrator, U.S. Fire Administration.

[FR Doc. 91-9880 Filed 4-26-91; 8:45 am]

BILLING CODE 6718-01-M

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Parts 1, 90, and 97

[PR Docket No. 89-552; FCC 91-74]

#### Private Land Mobile Radio Services; Use of the 220-222 MHz Frequency Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

**SUMMARY:** The Commission has adopted a Report and Order that amends part 90 of the rules to establish service rules and technical standards for the use of frequencies in the 220-222 MHz band. The adopted rules will provide eligible part 90 applicants with additional spectrum for their operational needs as well as foster the development of land mobile radio equipment that utilizes narrowband technology.

**DATES:** Except as indicated below, all rules adopted in this proceeding are effective May 29, 1991. 47 CFR 90.711 is effective May 1, 1991, and 47 CFR 90.713 is effective July 29, 1991.

**FOR FURTHER INFORMATION CONTACT:** John Borkowski or Ron Netro, Rules Branch, Private Radio Bureau, (202) 634-2443. For engineering or technical information, contact Eugene Thomson, (202) 634-2443.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, PR Docket No. 89-552, FCC 91-74, adopted March 14, 1991, and released April 17, 1991. The full text of this Report and Order is available for inspection and copying during normal business hours in the FCC Dockets Branch, Room 230, 1919 M Street, NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, Washington, DC 20036, telephone (202) 452-1422.

#### Summary of Report and Order

1. The 2 MHz of spectrum available in this band is divided into 400 5 KHz-wide frequencies, paired to create 200 narrowband channels. Of the 200 channels, 60 are set aside for nationwide applicants. Of these 60 channels, 10 are set aside exclusively for Government use and 50 exclusively for non-Government use. Nationwide channels are divided into 5-channel blocks and 10-channel blocks. Of the 50 non-Government nationwide channels, 30 channels (two 10-channel blocks and two 5-channel blocks) are set aside for non-commercial applicants (licensees using the system for their own internal purposes only), and 20 channels (four 5-channel blocks) are set aside for commercial applicants (applicants that intend to operate their systems as private carriers providing communications services to others).

2. The 140 channels not dedicated to nationwide use are set aside for local use. All of these channels are available on a co-equal basis for Government and non-Government licensees. Of these 140 channels, 100 are set aside for trunked operations, 20 are set aside for data



operations (digital transmissions or analog non-voice transmissions), 10 are set aside for public safety/mutual aid use, and 10 do not have such use restrictions. The trunked channels are assigned in groups of 5 non-contiguous channels spaced 150 kHz (30 channels) apart. Ten of the 20 channels set aside for data operations are not immediately available because they may be allocated for public-safety uses in other on-going Commission proceedings.

3. All applications for licenses in this band will be granted on a first-come, first-served basis and may be filed on or after the second day after publication of a summary of this document in the *Federal Register*. Licenses will not be granted, however, until the first type-acceptance of equipment for land mobile use in the 220-222 MHz band. A single applicant may apply for one of each type of nationwide system for which it qualifies (*i.e.*, one non-Government commercial system, one 5-channel non-Government non-commercial system, one 10-channel non-Government non-commercial system, etc.), but may not initially be licensed for more than one commercial block and one non-commercial block. Nationwide applicants must submit a detailed plan for construction and operation of the nationwide system and must meet certain financial qualifications. Generally, non-nationwide applicants may not be authorized for more than one individual channel or trunked channel group in a geographic area. Individual channels may not be stacked to obtain a wideband channel. Non-nationwide applicants that seek more than one channel or system in the same geographic area must establish a strong showing of communications need for the additional channel(s) or system(s).

4. Same-day applications for nationwide channel blocks that exceed the number of blocks available in the

relevant category and same-day applications for local channels in a geographic area that exceed the number available in the relevant category will be considered as mutually exclusive and resolved by lottery. Non-nationwide licenses will have a five-year license term and systems must be constructed and placed in operation within eight months of license grant. Nationwide licenses will have a ten-year license term and must be constructed and placed in operation according to a schedule of benchmarks at 2, 4, 6 and 10 years. Non-nationwide authorizations for systems that are not constructed or placed in operation within eight months, and nationwide authorizations for systems that do not meet their two-year or four-year construction benchmarks, cancel automatically. No systems in this band may be partially transferred or assigned; full transfer or assignment of a license is permitted, but only for nationwide systems that are 40 percent constructed or non-nationwide systems that are fully constructed. Applications may be filed only for primary land mobile uses, although fixed and paging uses ancillary to a licensee's land mobile operations will be permitted.

5. For each 5 kHz channel, a system will be authorized a maximum channel bandwidth of 4 kHz. Channels may not be stacked for wideband operation. All transmitter emissions must satisfy a single emissions mask. Except for nationwide assignments, co-channel frequency reuse will be 120 kilometers. Geographic separation will be required for certain systems with transmitting and receiving frequencies less than 200 kHz (40 channels) apart. The maximum base station facility permitted will be 500 watts effective radiated power at an antenna height of 150 meters. The effective radiated power authorized will be based on a sliding scale according to antenna height. Base station frequency

tolerance will be  $\pm 0.00001\%$ ; mobile/portable frequency tolerance will be  $\pm 0.00015\%$ .

#### Final Regulatory Flexibility Analysis

6. Pursuant to the Regulatory Flexibility Act of 1980, a final regulatory flexibility analysis has been prepared. It is available for public viewing as part of the full text of this decision which may be viewed at the Commission's offices or obtained from its copy contractor.

#### Paperwork Reduction Act Statement

7. The rules adopted herein have been analyzed pursuant to the Paperwork Reduction Act of 1980. This analysis is contained in the full text of this decision.

#### List of Subjects

##### 47 CFR Part 1

Communications common carriers, Penalties, Reporting and recordkeeping requirements, Radio.

##### 47 CFR Part 90

Private land mobile radio services, 220-222 MHz narrowband frequencies, Radio.

##### 47 CFR Part 97

Communication equipment, Radio, Satellites.

#### Amendatory Text

47 CFR part 1, 47 CFR part 90 and 47 CFR part 97 are amended as follows:

1. The authority citation for part 1 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552, unless otherwise noted.

2. 47 CFR 1.1102 is amended by adding 6(a) (vii) and (viii) and 6(b) (vii) and (viii) and by adding a note C to read as follows:

Action	FCC form No.	Fee amount	Fee type code	Address
6. Land Mobile Radio Stations:				
a. New, Reinstatement, Modification and/or Renewal (per call sign):				
(vii) 220-222 MHz (Nationwide only—see Note C below).	FCC 574, FCC 155.....	35	PAL.....	Federal Communications Commission, 220-222 MHz Services, P.O. Box 358360, Pittsburgh, PA 15251-5360.
(viii) 220-222 MHz (Non-nationwide only).	FCC 574.....	35	PAL.....	Federal Communications Commission, 220-222 MHz Services, P.O. Box 358360, Pittsburgh, PA 15251-5360.
b. Assignments (per station):				
(vii) 220-222 MHz (Nationwide only—see Note C below).	FCC 574, FCC 155.....	35	PAL.....	Federal Communications Commission, 220-222 MHz Services, P.O. Box 358360, Pittsburgh, PA 15251-5360.
(viii) 220-222 MHz (Non-nationwide only).	FCC 574.....	35	PAL.....	Federal Communications Commission, 220-222 MHz Services, P.O. Box 358360, Pittsburgh, PA 15251-5360.



Note: C. The fee due for any application related to a nationwide 220-222 MHz system is calculated by multiplying the number of stations (call signs) by \$35. For nationwide systems at 220-222 MHz, each frequency pair (channel) in each geographic location is a separate given a separate call sign.

3. The authority citation for part 90 is amended to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

4. 47 CFR 90.17 is amended by adding the frequency band 220-222 MHz to the Table in paragraph (b) between the entries for 173.39625 MHz and 450 to 470 MHz to read as follows:

**§ 90.17 Local Government Radio Service.**

(b) \* \* \*

LOCAL GOVERNMENT RADIO SERVICE  
FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
220 to 222 .....	Base and mobile ...	(4)

5. 47 CFR 90.19 is amended by adding the frequency band 220-222 MHz to the Table in paragraph (d) between the entries for 173.075 MHz and 450-470 MHz to read as follows:

**§ 90.19 Police Radio Service.**

(d) \* \* \*

POLICE RADIO SERVICE FREQUENCY  
TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
220 to 222 .....	Base and mobile ...	(4)

6. 47 CFR 90.21 is amended by adding the frequency band 220-222 MHz to the Table in paragraph (b) between the entries for 170.150 MHz and 450-470 MHz to read as follows:

**§ 90.21 Fire Radio Service.**

(b) \* \* \*

FIRE RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
220 to 222 .....	Base and mobile ...	(17)

7. 47 CFR 90.23 is amended by adding the frequency band 220-222 MHz to the Table in paragraph (b) between the entries for 169-172 MHz and 450-470 MHz to read as follows:

**§ 90.23 Highway Maintenance Radio Service.**

(b) \* \* \*

HIGHWAY MAINTENANCE RADIO SERVICE  
FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
220 to 222 .....	Base and mobile ...	(19)

8. 47 CFR 90.25 is amended by adding the frequency band 220-222 MHz to the Table in paragraph (b) between the entries for 172.375 MHz and 450-470 MHz to read as follows:

**§ 90.25 Forestry-Conservation Radio Service.**

(b) \* \* \*

FORESTRY-CONSERVATION RADIO  
SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
220 to 222 .....	Base and mobile ...	(23)

9. 47 CFR 90.53 is amended by adding the frequency band 220-222 MHz to the Table in paragraph (a) between the entries for 169-172 MHz and 450-470 MHz to read as follows:

**§ 90.53 Frequencies available.**

(a) \* \* \*

SPECIAL EMERGENCY RADIO SERVICE  
FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
220 to 222 .....	Base and mobile ...	(8)

10. 47 CFR 90.63 is amended by adding the frequency band 220-222 MHz to the Table in paragraph (c) between the entries for 216-220 MHz and 406-413 MHz to read as follows:

**§ 90.63 Power Radio Service.**

(c) \* \* \*

POWER RADIO SERVICE FREQUENCY  
TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
220 to 222 .....	Base and mobile ...	(26)

11. 47 CFR 90.65 is amended by adding the frequency band 220-222 MHz to the Table in paragraph (b) between the entries for 216-220 MHz and 406-413 MHz to read as follows:

**§ 90.65 Petroleum Radio Service.**

(b) \* \* \*

PETROLEUM RADIO SERVICE FREQUENCY  
TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
220 to 222 .....	Base and mobile ...	(17)

12. 47 CFR 90.67 is amended by adding the frequency band 220-222 MHz to the Table in paragraph (b) between the entries for 216-220 MHz and 406-413 MHz to read as follows:

**§ 90.67 Forest Products Radio Service.**

\* \* \*



(b) \* \* \*

FOREST PRODUCTS RADIO SERVICE  
FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
220 to 222 .....	Base and mobile ...	(37).

13. 47 CFR 90.69 is amended by adding the frequency band 220-222 MHz to the Table in paragraph (b) between the entries for 173.375 MHz and 806-821 MHz to read as follows:

## § 90.69 Motion Picture Radio Service.

(b) \* \* \*

MOTION PICTURE RADIO SERVICE  
FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
220 to 222 .....	Base and mobile ...	(13).

14. 47 CFR 90.71 is amended by adding the frequency band 220-222 MHz to the Table in paragraph (b) between the entries for 173.375 MHz and 452.975 MHz to read as follows:

## § 90.71 Relay Press Radio Service.

(b) \* \* \*

RELAY PRESS RADIO SERVICE  
FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
220 to 222 .....	Base and mobile ...	(10).

15. 47 CFR 90.73 is amended by adding the frequency band 220-222 MHz to the Table in paragraph (c) between the entries for 216-220 MHz and 406-413 MHz to read as follows:

## § 90.67 Special Industrial Radio Service.

(c) \* \* \*

SPECIAL INDUSTRIAL RADIO SERVICE  
FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
220 to 222 .....	Base and mobile ...	(37).

16. 47 CFR 90.75 is amended by adding the frequency band 220-222 MHz to the Table in paragraph (b) between the entries for 216-220 MHz and 406-413 MHz to read as follows:

## § 90.75 Business Radio Service.

(b) \* \* \*

BUSINESS RADIO SERVICE FREQUENCY  
TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
220 to 222 .....	Base and mobile ...	(44).

17. 47 CFR 90.79 is amended by adding the frequency band 220-222 MHz to the Table in paragraph (c) between the entries for 216-220 MHz and 450-470 MHz to read as follows:

## § 90.79 Manufacturers Radio Service.

(c) \* \* \*

MANUFACTURERS RADIO SERVICE  
FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
220 to 222 .....	Base and mobile ...	(27).

18. 47 CFR 90.81 is amended by adding the frequency band 220-222 MHz to the Table in paragraph (c) between the entries for 216-220 MHz and 450-470 MHz to read as follows:

## § 90.81 Telephone Maintenance Radio Service.

(c) \* \* \*

TELEPHONE MAINTENANCE RADIO  
SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
220 to 222 .....	Base and mobile ...	(1).

19. 47 CFR 90.89 is amended by adding the frequency band 220-222 MHz to the Table in paragraph (b) between the entries for 169-172 MHz and 450-470 MHz to read as follows:

## § 90.89 Motor Carrier Radio Service.

(b) \* \* \*

MOTOR CARRIER RADIO SERVICE  
FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
220 to 222 .....	Base and mobile ...	(22).

20. 47 CFR 90.91 is amended by adding the frequency band 220-222 MHz to the Table in paragraph (b) between the entries for 169-172 MHz and 406-413 MHz to read as follows:

## § 90.91 Railroad Radio Service.

(b) \* \* \*

RAILROAD RADIO SERVICE FREQUENCY  
TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
220 to 222 .....	Base and mobile ...	(20).

21. 47 CFR 90.93 is amended by adding the frequency band 220-222 MHz to the Table in paragraph (b) between the entries for 169-172 MHz and 450-470 MHz to read as follows:

## § 90.93 Taxicab Radio Service.

(b) \* \* \*



TAXICAB RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
220 to 222.....	Base and mobile...	(16).

22. 47 CFR 90.95 is amended by adding the frequency band 220-222 MHz to the Table in paragraph (c) between the entries for 169-172 MHz and 450-470 MHz to read as follows:

**§ 90.95 Automobile Emergency Radio Service.**

(c) \* \* \*

AUTOMOBILE EMERGENCY RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
220 to 222.....	Base and mobile...	(19).

23. 47 CFR 90.17(c)(4), 90.19(e)(4), 90.53(b)(8), 90.65(c)(17), 90.81(d)(1), 90.21(c)(17), 90.23(c)(19), 90.25(c)(23), 90.63(d)(26), 90.67(c)(37), 90.69(c)(13), 90.71(c)(10), 90.73(d)(37), 90.75(c)(44), 90.79(d)(27), 90.89(c)(22), 90.91(c)(20), 90.93(c)(16) and 90.95(d)(19) are added, in each case to read as follows:

(—) Subpart T contains rules for assignment of frequencies in the 220-222 MHz band.

24. 47 CFR 90.149 is amended by revising paragraph (a) and adding a new paragraph (c) to read as follows:

**§ 90.149 License term.**

(a) Except as indicated in paragraph (c) of this section, license for stations authorized under this part will be issued for a term not to exceed five years from the date of the original issuance, modification or renewal.

(c) Nationwide authorizations under subpart T of this part will be issued for a term not to exceed ten years from the date of the original issuance, modification or renewal.

25. 47 CFR 90.175 is amended by adding paragraph (f)(14) to read as follows:

**§ 90.175 Frequency coordination requirements.**

(f) \* \* \*

(14) Applications for frequencies in the 220-222 MHz band.

26. 47 CFR 90.205(b) is amended by adding the 220-222 MHz band and limitation 12 to the table and revising the 220-470 entry to 222-470 to read as follows:

**§ 90.205 Power.**

(b) \* \* \*

Frequency range (MHz)	Maximum output power (watts)	Maximum effective radiated power (ERP) (watts)
220 to 222.....	—	500. <sup>(1)</sup>
222 to 470.....	(*) 350.....	—

(<sup>1</sup>) Transmitter peak envelope power shall be used to determine ERP.

27. 47 CFR 90.209 is amended by revising paragraphs (b)(8) and (j) and adding paragraph (l) to read as follows:

**§ 90.209 Bandwidth limitations.**

(b) \* \* \*

(8) For narrowband operations on 5 kHz channels in the 150-170 MHz band, the maximum authorized bandwidth shall be 3.6 kHz. For narrowband operations on 5 kHz channels in the 220-222 MHz band, the maximum authorized bandwidth shall be 4 kHz. Assignable frequencies represent the center of the authorized bandwidth.

(j) Except as indicated in paragraph (l) of this section, for transmitters that operate on channels spaced 5 kHz apart (see § 90.271 of this part), the power of any emission shall be attenuated below the peak envelope power (P) in accordance with the following schedule:

(l) For transmitters that operate on 5 kHz channel assignments in the 220-222 MHz frequency band, the power of any emission shall be attenuated below the power of the highest emission contained within the authorized channel bandwidth in accordance with the following schedule:

(1) On any frequency within the authorized bandwidth: Zero dB.

(2) On any frequency removed from the center of the authorized bandwidth by a displacement frequency ( $f_d$  in kHz) of more than 2 kHz up to and including 3.75 kHz: The lesser of  $30 + 20(f_d - 2)$  dB, or  $55 + 10 \log(P)$  where (P) is the highest emission (watts) of the transmitter inside the authorized bandwidth, or 65 dB.

(3) On any frequency beyond 3.75 kHz removed from the center of the

authorized bandwidth: At least  $55 + 10 \log(P)$  dB.

(4) The resolution bandwidth of the instrumentation used to measure the emission power shall be 100 Hz for measuring emissions up to and including 250 kHz from the edge of the authorized bandwidth, and 10 kHz for measuring emissions more than 250 kHz from the edge of the authorized bandwidth. If a video filter is used, its bandwidth shall not be less than the resolution bandwidth. The power level of the highest emission within the channel, to which the attenuation is referenced, shall be remeasured for each change in resolution bandwidth.

(5) Emission power (P) shall be measured in peak values.

28. 47 CFR 90.211(d)(2) is revised to read as follows:

**§ 90.211 Modulation requirements.**

(d) \* \* \*

(2) Transmitters subject to the emission limitations of paragraphs (f), (g), (h), (j), or (l) of § 90.209 of this part shall be exempt from the audio low-pass filter requirements of this section, provided that transmitters used for digital emissions must be type accepted with the digital modulating signal or signals specified by the manufacturer. The type acceptance application shall contain such information as may be necessary to demonstrate that the transmitter complies with the emission limitations specified in paragraphs (f), (g), (h), (j), or (l) of § 90.209 of this part.

**§ 90.213 [Amended]**

29. 47 CFR § 90.213 is amended by adding footnote 18 to the 50-450 MHz band in the Frequency Tolerance Table to read:

(<sup>18</sup>) In the 220-222 MHz band, base stations shall maintain the carrier frequency to within  $\pm 0.00001$  per cent, and mobiles shall maintain the carrier frequency to within  $\pm 0.000015$  per cent. Mobile units may utilize synchronizing signals from associated base stations to achieve the specified carrier stability.

30. 47 CFR 90.233 is amended by revising paragraph (c) to read as follows:

**§ 90.233 Base/mobile non-voice operations.**

(c) Provisions of this section do not apply to authorizations for paging, telemetry, radiolocation, AVM, radioteleprinter, radio call box operations, or authorizations granted pursuant to subpart T of this part.

31. 47 CFR 90.238 is amended by adding paragraph (f) to read as follows:



**§ 90.238 Telemetry operations.**

(f) 220–222 MHz as available under subpart T of this part.

32. 47 CFR 90.243 is amended by revising paragraph (a) in its entirety to read as follows:

**§ 90.243 Mobile relay stations.**

(a) Mobile relay stations under this part may be authorized only as follows:

(1) On frequencies below 450 MHz, except the 220–222 MHz band, mobile relay stations may be authorized within the contiguous 48 states to operate only in the Police, Fire, Local Government, Highway Maintenance, Forestry Conservation, Power, Petroleum, Forest Products, Manufacturers, Telephone Maintenance, and Railroad Radio Services.

(2) On frequencies below 450 MHz, except the 220–222 MHz band, mobile relay stations may be authorized outside the contiguous 48 states to operate only in the Police, Fire, Local Government, Highway Maintenance, Forestry Conservation, Power, Petroleum, Forest Products, Manufacturers, Telephone Maintenance, Railroad Radio, Business and Special Industrial Radio Services.

(3) Mobile relay operations will be authorized in the 220–222 MHz band.

(4) Mobile relay stations will be authorized on frequencies between 450 MHz and 470 MHz in all of the services governed by this part except for the Radiolocation Service.

(5) Mobile relay stations will be authorized on frequencies between 470 MHz and 512 MHz in all of the services that have been allocated such frequencies.

33. 47 CFR 90.419 is amended by revising paragraph (a) to read as follows:

**§ 90.419 Points of communication.**

(a) Base stations licensed under subpart T of this part and those in the Public Safety and Special Emergency Radio Services that operate on frequencies below 450 MHz, may communicate on a secondary basis with other base stations, operational fixed stations, or fixed receivers authorized in these services.

34. 47 CFR 90.425 is amended by adding paragraph (d)(8) to read as follows:

**§ 90.425 Station identification.**

(d) \* \* \*

(8) It is a base or mobile station in the 220–222 MHz band authorized to operate on a nationwide basis in accordance with subpart T of this part.

35. 47 CFR 90.555 is amended by adding the 220–222 MHz frequency band to the combined frequency list in paragraph (b) to read as follows:

**§ 90.555 Combined frequency listing.****(b) Combined frequency list.**

Frequency	Services	Special limitations
220–222	All Svcs. Exc. RS.	See subpart T.

36. 47 CFR part 90 is amended by adding a new subpart T to read as follows:

**Subpart T—Regulations Governing Licensing and Use of Frequencies in the 220–222 MHz Band****Sec.**

- 90.701 Scope.
- 90.703 Eligibility.
- 90.705 Forms to be used.
- 90.709 Special limitations on amendment of applications and on assignment or transfer of authorizations licensed under this subpart.
- 90.711 Processing of applications.
- 90.713 Entry criteria.
- 90.715 Frequencies available.
- 90.717 Channels available for nationwide systems in the 220–222 MHz band.
- 90.719 Individual channels available for assignment in the 220–222 MHz band.
- 90.720 Channels available for public safety/mutual aid.
- 90.721 Channels available for trunked systems in the 220–222 MHz band.
- 90.723 Selection and assignment of frequencies.
- 90.725 Construction requirements.
- 90.727 Extended implementation schedules.
- 90.729 Limitations on power and antenna height.
- 90.731 Restrictions on operational-fixed stations.
- 90.733 Permissible operations.
- 90.735 Station identification.
- 90.737 Supplemental reports required of licensees.
- 90.739 Number of systems authorized in a geographical area.
- 90.741 Urban areas for nationwide systems.

**§ 90.701 Scope.**

Frequencies in the 220–222 MHz band are available for land mobile use for both Government and non-Government operations. This subpart sets out the regulations governing the licensing and operation of non-Government systems operating in the 220–222 MHz band. It includes eligibility requirements, application procedures, and operational

and technical standards for stations licensed in these bands. The rules in this subpart are to be read in conjunction with the applicable requirements contained elsewhere in this part; however, in case of conflicts, the provisions of this subpart shall govern with respect to licensing and operation in this frequency band.

**§ 90.703 Eligibility.**

The following persons are eligible for licensing in the 220–222 MHz band.

(a) Any person eligible for licensing under subparts B, C, D or E of this part.

(b) Any person proposing to provide communications service to any person eligible for licensing under subparts B, C, D or E of this part on a not-for-profit, cost-shared basis.

(c) Any person, except wire line telephone common carriers, eligible under this part proposing to provide on a commercial basis, station and ancillary facilities for the use of individuals, federal government agencies and persons eligible for licensing under subparts B, C, D or E of this part.

**§ 90.705 Forms to be used.**

Applications for all radio facilities under this subpart must be prepared on FCC Form 574 and must be submitted or filed in accordance with § 90.127 of this part.

**§ 90.709 Special limitations on amendment of applications and on assignment or transfer of authorizations licensed under this subpart.**

(a) Except as indicated in paragraph (b) of this section, the Commission will not consent to the following:

(1) Any request to amend an application so as to substitute a new entity as the applicant;

(2) Any application to assign or transfer a license for a non-nationwide system prior to the completion of construction of facilities; or

(3) Any application to transfer or assign a license for a nationwide system before the licensee has constructed at least 40% of the proposed system pursuant to the provisions of § 90.725(a) of this part.

(b) The Commission will grant the applications described in paragraph (a) of this section if:

(1) the request to amend an application or to transfer or assign a license does not involve a substantial change in the ownership or control or the applicant; or

(2) The changes in the ownership or control of the applicant are involuntary due to the original applicant's



insolvency, bankruptcy, incapacity, or death.

(c) The assignee or transferee of a nationwide system is subject to the construction benchmarks and reporting requirements of § 90.725(a) of this part. The assignee or transferee of a nationwide system is not subject to the entry criteria described in § 90.713 of this part.

(d) A licensee may not partially assign any authorization granted pursuant to the subpart.

#### § 90.711 Processing of applications.

(a) Applications will be processed on a first-come, first-served basis. When multiple applications are filed on the same day for frequencies in the same geographic area, and insufficient frequencies are available to grant all applications (*i.e.*, if all applications were granted, violation of the provisions of § 90.723(f) of this subpart would result), or when multiple applications for nationwide systems are filed on the same day for a number of systems in excess of those available in the relevant category (10-channel non-commercial, 5-channel non-commercial, or 5-channel commercial), these applications will be considered mutually exclusive and will be subject to lottery proceeding pursuant to § 1.972 of this chapter.

(b) All applications will first be considered to determine whether they are substantially complete and acceptable for filing. If so, they will be assigned a file number and put in pending status. If not, they will be dismissed.

(c) Except as otherwise provided in this section, all applications in pending status will be processed in the order in which they are received, determined by the date on which the application was received by the Commission in its Gettysburg, Pennsylvania office (or the address set forth at § 1.1102 of this chapter for applications requiring the fees established by part 1, subpart G of this chapter).

(d) Each application that is accepted for filing will then be reviewed to determine whether it can be granted. Frequencies will be assigned by the Commission pursuant to the provisions of § 90.723 of this part.

(e) An application which is dismissed will lose its place in the processing line.

(f) If an application is returned for correction and resubmitted and received by the Commission within 60 days from the date on which it was returned to the applicant, it will retain its place in the processing line. If it is not received within 60 days, it will lose its place in the processing line.

#### § 90.713 Entry criteria.

(a) As set forth in § 90.717 of this part, two blocks of ten and six blocks of five contiguous channels have been set aside for exclusive assignments for non-Government use on a nationwide basis. Each application for a nationwide channel block must include:

(1) Certification that, within ten years of receiving a license, the applicant will construct a minimum of one base station in at least 70 different geographic areas; that base stations will be located in a minimum of 28 of the 100 urban areas listed in § 90.741 of this part; that each base station in the ten large urban areas designated in § 90.725(h) of this part will have all assigned nationwide channels constructed and in operation (regularly interacting with mobile and/or portable units); and that all other base stations will have a minimum of five of the assigned nationwide channels constructed and in operation;

(2) Certification that the applicant will meet the construction requirements set forth in § 90.725 of this part;

(3) A ten year schedule detailing plans for construction of the proposed system;

(4) An itemized estimate of the cost of constructing 40 percent of the system and operating the system during the first four years of the license term; and

(5) Proof that the applicant has sufficient financial resources to construct 40 percent of the system and operate the proposed system for the first four years of the license term; *i.e.*, that the applicant has net current assets sufficient to cover estimated costs or a firm financial commitment sufficient to cover estimated costs.

(b) Applicants relying on personal or internal resources for the showing required in paragraph (a) of this section must submit independently audited financial statements certified within one year of the date of the application showing net current assets sufficient to meet estimated construction and operating costs. They must also submit an independently audited balance sheet dated no more than sixty days before the date of the application showing the continued availability of sufficient net current assets.

(c) Applicants submitting evidence of a firm financial commitment for the showing required in paragraph (a) of this section must obtain the commitment from a *bona fide* commercially acceptable source, *e.g.*, a state or federally chartered bank or savings and loan institution, other recognized financial institution, the financial arm of a capital equipment supplier, or an investment banking house. If the lender is a not a state or federally chartered bank or savings and loan institution,

other recognized financial institution, the financial arm of a capital equipment supplier, or an investment banking house, the lender must also demonstrate that it has funds available to cover the total commitments it has made. The lender's commitment shall contain a statement that the lender:

(1) Has examined the financial condition of the applicant including an audited financial statement, and has determined that the applicant is creditworthy;

(2) Has examined the financial viability of the proposed system for which the applicant intends to use the commitment; and

(3) Is willing to provide a sum to the applicant sufficient to cover the realistic and prudent estimated costs of construction of 40% of the system and operation of the system for the first four years of the license term.

(d) An applicant in a geographic area for frequencies in the 220-222 MHz band may not have any interest in another pending application in the same geographic area for frequencies in the same category (trunked, individual, individual data, public safety/mutual aid) in that band. An applicant for a nationwide system in the 220-222 MHz band may not have any interest in another pending application for a nationwide system in the same category (10-channel non-commercial, 5-channel non-commercial, 5-channel commercial) in that band.

#### § 90.715 Frequencies available.

(a) The following table indicates the channel designations of frequencies available for assignment to eligible applicants under this subpart. Frequencies shall be assigned in pairs, with base station frequencies taken from the 220-221 MHz band with corresponding mobile and control station frequencies being 1 MHz higher and taken from the 221-222 MHz band. Only the lower half of the frequency pair(s) is listed in the table.

TABLE OF 220-222 MHz CHANNEL DESIGNATIONS

Channel No.	Base frequency (MHz)
1.....	220.0025
2.....	.0075
3.....	.0125
4.....	.0175
5.....	.0225
6.....	.0275
7.....	.0325
8.....	.0375
9.....	.0425
10.....	.0475
11.....	.0525
12.....	.0575



TABLE OF 220-222 MHz CHANNEL  
DESIGNATIONS—Continued

Channel No.	Base frequency (MHz)
13.....	.0625
14.....	.0675
15.....	.0725
16.....	.0775
17.....	.0825
18.....	.0875
19.....	.0925
20.....	.0975
21.....	220.1025
22.....	.1075
23.....	.1125
24.....	.1175
25.....	.1225
26.....	.1275
27.....	.1325
28.....	.1375
29.....	.1425
30.....	.1475
31.....	.1525
32.....	.1575
33.....	.1625
34.....	.1675
35.....	.1725
36.....	.1775
37.....	.1825
38.....	.1875
39.....	.1925
40.....	.1975
41.....	220.2025
42.....	.2075
43.....	.2125
44.....	.2175
45.....	.2225
46.....	.2275
47.....	.2325
48.....	.2375
49.....	.2425
50.....	.2475
51.....	.2525
52.....	.2575
53.....	.2625
54.....	.2675
55.....	.2725
56.....	.2775
57.....	.2825
58.....	.2875
59.....	.2925
60.....	.2975
61.....	220.3025
62.....	.3075
63.....	.3125
64.....	.3175
65.....	.3225
66.....	.3275
67.....	.3325
68.....	.3375
69.....	.3425
70.....	.3475
71.....	.3525
72.....	.3575
73.....	.3625
74.....	.3675
75.....	.3725
76.....	.3775

TABLE OF 220-222 MHz CHANNEL  
DESIGNATIONS—Continued

Channel No.	Base frequency (MHz)
77.....	.3825
78.....	.3875
79.....	.3925
80.....	.3975
81.....	220.4025
82.....	.4075
83.....	.4125
84.....	.4175
85.....	.4225
86.....	.4275
87.....	.4325
88.....	.4375
89.....	.4425
90.....	.4475
91.....	.4525
92.....	.4575
93.....	.4625
94.....	.4675
95.....	.4725
96.....	.4775
97.....	.4825
98.....	.4875
99.....	.4925
100.....	.4975
101.....	220.5025
102.....	.5075
103.....	.5125
104.....	.5175
105.....	.5225
106.....	.5275
107.....	.5325
108.....	.5375
109.....	.5425
110.....	.5475
111.....	.5525
112.....	.5575
113.....	.5625
114.....	.5675
115.....	.5725
116.....	.5775
117.....	.5825
118.....	.5875
119.....	.5925
120.....	.5975
121.....	220.6025
122.....	.6075
123.....	.6125
124.....	.6175
125.....	.6225
126.....	.6275
127.....	.6325
128.....	.6375
129.....	.6425
130.....	.6475
131.....	.6525
132.....	.6575
133.....	.6625
134.....	.6675
135.....	.6725
136.....	.6775
137.....	.6825
138.....	.6875
139.....	.6925
140.....	.6975

TABLE OF 220-222 MHz CHANNEL  
DESIGNATIONS—Continued

Channel No.	Base frequency (MHz)
141.....	220.7025
142.....	.7075
143.....	.7125
144.....	.7175
145.....	.7225
146.....	.7275
147.....	.7325
148.....	.7375
149.....	.7425
150.....	.7475
151.....	.7525
152.....	.7575
153.....	.7625
154.....	.7675
155.....	.7725
156.....	.7775
157.....	.7825
158.....	.7875
159.....	.7925
160.....	.7975
161.....	220.8025
162.....	.8075
163.....	.8125
164.....	.8175
165.....	.8225
166.....	.8275
167.....	.8325
168.....	.8375
169.....	.8425
170.....	.8475
171.....	.8525
172.....	.8575
173.....	.8625
174.....	.8675
175.....	.8725
176.....	.8775
177.....	.8825
178.....	.8875
179.....	.8925
180.....	.8975
181.....	220.9025
182.....	.9075
183.....	.9125
184.....	.9175
185.....	.9225
186.....	.9275
187.....	.9325
188.....	.9375
189.....	.9425
190.....	.9475
191.....	.9525
192.....	.9575
193.....	.9625
194.....	.9675
195.....	.9725
196.....	.9775
197.....	.9825
198.....	.9875
199.....	.9925
200.....	220.9975

(b) The 200 channels are divided into three sub-bands as follows:

Channel No.	Sub-band	Frequencies (MHz)
1-40.....	A.....	220.0025-220.1975/221.0025-221.1975
41-160.....	C.....	220.2025-220.7975/221.2025-221.7975
161-200.....	B.....	220.8025-220.9975/221.8025-221.9975



### § 90.717 Channels available for nationwide systems in the 220-222 MHz band.

Channels 51-60 and 141-150 are 10-channel blocks available to applicants eligible in all Part 90 services only for nationwide non-commercial systems. Channels 81-85 and 86-90 are 5-channel blocks available to applicants eligible in all Part 90 services only for nationwide non-commercial systems. The term "non-commercial system" is defined as a system that will be used only for a licensee's internal use. Channels 21-25, 26-30, 151-155, and 156-160 are 5-channel blocks available to non-Government applicants only for nationwide commercial systems. Channels 111-115 and 116-120 are 5-channel blocks available for Government nationwide use only.

### § 90.719 Individual channels available for assignment in the 220-222 MHz band.

Channels 171-200 are available to both Government and non-Government applicants, and may be assigned singly or in contiguous channel groups. Channels 171-180 are available for any use consistent with this subpart. Channels 181-200 are set aside for data only operations until March 31, 2000. The term "data", for purposes of this subpart, includes the transmission of text, control codes, and other information typical of machine-to-machine communications. Digitized voice signals are considered data signals under this subpart.

Note: Channels 181-185 and 196-200 are indefinitely reserved until further Commission action, and are not currently available for assignment or use.

### § 90.720 Channels available for public safety/mutual aid.

(a) Part 90 licensees whose licenses reflect a two-letter radio service code beginning with the letter "P" (except for "PS") are authorized by this rule to use mobile and/or portable units on Channels 161-170 throughout the United States, its territories, and possessions to transmit:

- (1) Communications relating to the immediate safety of life or
- (2) Communications to facilitate interoperability between public safety entities.

(b) Any entity eligible to obtain a license under subpart B of this part is also eligible to obtain a license for base/mobile operations on Channels 161-170. Base/mobile or base/portable communications on these channels that do not relate to the immediate safety of life or to communications interoperability between public safety entities may only be conducted on a

secondary, non-interference basis to such communications.

### § 90.721 Channels available for trunked systems in the 220-222 MHz band.

The channel groups listed in the following Table are available to both Government and non-Government applicants for trunked operations or operations of equivalent or greater efficiency for non-commercial or commercial operations.

TABLE—TRUNKED CHANNEL GROUPS

Group No.	Channel Nos.
1	1-31-61-91-121
2	2-32-62-92-122
3	3-33-63-93-123
4	4-34-64-94-124
5	5-35-65-95-125
6	6-36-66-96-126
7	7-37-67-97-127
8	8-38-68-98-128
9	9-39-69-99-129
10	10-40-70-100-130
11	11-41-71-101-131
12	12-42-72-102-132
13	13-43-73-103-133
14	14-44-74-104-134
15	15-45-75-105-135
16	16-46-76-106-136
17	17-47-77-107-137
18	18-48-78-108-138
19	19-49-79-109-139
20	20-50-80-110-140

### § 90.723 Selection and assignment of frequencies.

(a) Applications for frequencies in the 220-222 MHz band shall specify the number of frequencies requested and whether their intended use is for 5- or 10-channel nationwide systems, commercial or non-commercial use, 5-channel trunked systems, public safety/mutual aid use, individual data/voice use, or individual data only use. All frequencies in this band will be assigned by the Commission.

(b) Channels will be assigned pursuant to §§ 90.717, 90.719, 90.720 and 90.721 of this part.

(c) Applicants will be assigned only the number of channels justified to meet their requirements. Except for the 10-channel nationwide assignments, the maximum number of frequencies that will be assigned to an applicant at any one time is five.

(d) Base station receivers utilizing channels assigned from Sub-band A as designated in § 90.715(b) of this part will be geographically separated from those base station transmitters utilizing channels removed 200 kHz or less and assigned from Sub-band B as follows:

### GEOGRAPHIC SEPARATION OF SUB-BAND A BASE STATION RECEIVERS AND SUB-BAND B BASE STATION TRANSMITTERS

Separation distance (kilometers)	Effective radiated power (watts) <sup>1</sup>
0.0-0.3	(*)
0.3-0.5	5
0.5-0.6	10
0.6-0.8	20
0.8-2.0	25
2.0-4.0	50
4.0-6.0	100
6.0-10.0	200
Over 6.0	500

<sup>1</sup> Transmitter peak envelope power shall be used to determine effective radiated power.

<sup>2</sup> Stations separated by 0.3 km or less shall not be authorized. This table does not apply to the low-power mobile data channels 196-200. See § 90.723(c) of this part.

(e) A mobile station is authorized to transmit on any frequency assigned to its associated base station (mobile units not associated with base stations (see § 90.720(a) of this part must operate on "mobile" channels).

(f) Except for nationwide assignments, the separation of co-channel base stations shall be 120 kilometers. Shorter separations will be considered on a case-by-case basis upon submission of a technical analysis indicating that at least 10 dB protection will be provided to an existing station's 38 dBu signal level contour.

### § 90.725 Construction requirements.

(a) Licensees granted nationwide authorizations will be required to construct base stations having a minimum of five assigned nationwide channels (or, for ten-channel nationwide systems, ten assigned channels in the ten large areas listed in paragraph (h) of this section) and place those base stations in operation as follows:

(1) In at least 10 percent of the geographic areas designated in the application within two years of initial license grant, including base stations in at least seven urban areas listed in § 90.741 of this part;

(2) In at least 40 percent of the geographic areas designated in the application within four years of initial license grant, including base stations in at least 28 urban areas listed in § 90.741 of this part;

(3) In at least 70 percent of the geographic areas designated in the application within six years of initial license grant, including base stations in at least 28 urban areas listed in § 90.741 of this part;

(4) In all geographic areas designated in the application within ten years of initial license grant, including base



stations in at least 28 urban areas listed in § 90.741 of this part.

(b) Licensees not meeting the two and four year criteria shall lose the entire authorization, but will be permitted a six month period to convert the system to non-nationwide channels, if such channels are available.

(c) Licensees not meeting the six and ten year criteria shall lose the authorizations for the facilities not constructed, but will retain exclusivity for constructed facilities.

(d) Each nationwide licensee must file a system progress report on or before the anniversary date of the grant of its license after 2, 4, 6 and 10 years, demonstrating compliance with the relevant construction benchmark criteria. This progress report must include:

(1) An overall status report of the system, that must include, but need not be limited to:

(i) A list of all sites at which base stations have been constructed, with antenna heights and effective radiated power specified for each site;

(ii) A list of all other known base station sites at which construction has not been completed; and

(iii) A construction and operational schedule for the next five-year period, including any known changes to the plan for construction and operation submitted with the licensee's original application for the system.

(2) An analysis of the system's compliance with the requirements of paragraph (a) of this section, with documentation to support representations of completed construction, including, but not limited to:

(i) Equipment purchase orders and contracts;

(ii) Lease or purchase contracts relating to antenna site arrangements;

(iii) Equipment and antenna identification (serial) numbers; and

(iv) Service agreements and visits.

(e) Beginning with its second license term, each nationwide licensee must file a progress report once every five years on the anniversary date of the grant of the first renewal of its authorization, including the information required by paragraph (b)(1) of this section.

(f) Licensees authorized non-nationwide systems must construct their systems (i.e., have all specified base stations constructed with all channels)

and place their systems in operation within eight months of the initial license grant date. Authorizations for systems not constructed and placed in operation within eight months from the date of initial license grant cancel automatically.

(g) A licensee that loses authorization for some or all of its channels due to failure to meet construction deadlines or benchmarks may not reapply for nationwide channels in the same category or for non-nationwide channels in the same category in the same geographic area for one year from the date the Commission takes final action affirming that those channels have been cancelled.

(h) Base stations of 10-channel nationwide systems must be fully constructed (i.e., must have all 10 channels) to be counted towards the benchmark criteria in paragraph (a) of this section if they are located in any of the ten large urban areas listed in the following Table (base stations are considered located in the following ten large urban areas if they are within 60 kilometers of the coordinates listed:

TABLE

Large urban area	North longitude			West latitude		
	"	'	"	"	'	"
New York, New York—Northeastern New Jersey.....	40	45	06	73	59	39
Los Angeles—Long Beach, California.....	34	03	15	118	14	28
Chicago, Illinois—Northwestern Indiana.....	41	52	28	87	38	22
Philadelphia, Pennsylvania—New Jersey.....	39	56	58	75	09	21
Detroit, Michigan.....	42	19	48	83	02	57
Boston, Massachusetts.....	42	21	24	71	03	25
San Francisco—Oakland, California.....	37	46	39	122	24	40
Washington, DC—Maryland—Virginia.....	38	53	51	77	00	33
Dallas—Forth Worth, Texas.....	32	47	09	96	47	37
Houston, Texas.....	29	45	26	95	21	37

#### § 90.727 Extended implementation schedules.

Except for nationwide and commercial systems, a period of up to three (3) years may be authorized for constructing and placing a system in operation if:

(a) The applicant submits justification for an extended implementation period. The justification must include reasons for requiring an extended construction period, the proposed construction schedule (with milestones), and must show either that:

(1) The proposed system will serve a large fleet of mobile units and will involve a multi-year cycle for its

planning, approval, funding, purchase, and construction; or

(2) The proposed system will require longer than 12 months to place in operation because of its purpose, size, or complexity; or

(3) The proposed system is to be part of a coordinated or integrated area-wide system which will require more than 12 months to construct; or

(4) The applicant is a local governmental agency and demonstrates that the government involved is required by law to follow a multi-year cycle for planning, approval, funding, and purchasing the proposed system.

(b) Authorizations under this section are conditioned upon the licensee's compliance with the submitted extended implementation schedule. Failure to meet the schedule will result in loss of authorizations for facilities not constructed.

#### § 90.729 Limitations on power and antenna height.

(a) The permissible effective radiated power (ERP) with respect to antenna heights shall be determined from the following Table. These are maximum values and applicants are required to justify power levels requested.



## ERP VS. ANTENNA HEIGHT TABLE

Antenna height above average terrain (HAAT), meters	Effective radiated power, watts <sup>1</sup>
Up to 150.....	500
150 to 225.....	250
225 to 300.....	125
300 to 450.....	60
450 to 600.....	30
600 to 750.....	20
750 to 900.....	15
900 to 1050.....	10
Above 1050.....	5

<sup>1</sup> Transmitter PEP shall be used to determine ERP.

(b) The maximum permissible ERP for mobile units is 50 watts. Portable units are considered as mobile units.

(c) Channels 196-200 are limited to 2 watts ERP and a maximum antenna height of 20 feet/6.1 meters above ground.

#### § 90.731 Restrictions on operational-fixed stations.

(a) Except for control stations, operational-fixed stations will not be authorized in the 220-222 MHz band. Licensees may utilize their authorized frequencies for fixed signaling in accordance with § 90.235 of this part.

(b) Control stations associated with one or more mobile relay stations will be authorized only on the assigned frequency of the associated mobile station. Use of a mobile service frequency by a control station of a mobile relay system is subject to the condition that harmful interference shall not be caused to stations of licensees authorized to use the frequency for mobile service communications.

#### § 90.733 Permissible operations.

(a) Systems authorized in the 220-222 MHz band may be used:

(1) Only for base/mobile and mobile relay transmissions on a primary basis, and fixed voice, signaling and paging transmissions ancillary to land mobile use. Fixed-only and paging-only operations are not permitted in this band.

(2) Only by persons who are eligible for facilities under either this subpart or in the radio services included in subparts B, C, D, or E of this part.

(3) Only for the transmission of messages or signals permitted in the services in which the licensees are eligible.

(b) See § 90.720 of this part for permissible operations on mutual aid channels.

(c) When two or more contiguous channels are authorized to a single licensee (up to a 10-channel nationwide block), more than a single emission may be utilized within the authorized bandwidth. In such cases, the frequency stability requirements of § 90.213 of this part shall not apply, but the out-of-band emission limits of § 90.209(1) of this part shall be met.

(d) Licensees of non-commercial nationwide systems that have constructed 40 percent of their systems may lease excess capacity of their systems as private carriers.

#### § 90.735 Station Identification.

(a) Except for nationwide systems authorized in the 220-222 MHz band, station identification is required pursuant to § 90.425 of this part.

(b) Trunked systems shall employ an automatic device to transmit the call sign of the base station at 30 minute intervals. The identification shall be made on the lowest frequency in the base station trunked group assigned to the licensee. If this frequency is in use at the time identification is required, the identification may be made at the termination of the communication in progress on this frequency.

(c) Station identification may be by voice or International Morse Code. If the call sign is transmitted in International Morse Code, it must be at a rate of between 15 to 20 words per minute, and by means of tone modulation of the transmitter, with the tone frequency being between 800 and 1000 hertz.

(d) Data transmissions (see § 90.719 of this part) may also be identified by data transmission of the station call sign. A licensee that identifies its station in this manner must provide the Commission, upon its request, information (such as digital codes and algorithms) sufficient to decipher the data transmission to ascertain the call sign transmitted.

#### § 90.737 Supplemental reports required of licensees.

(a) Licensees of nationwide systems must submit progress reports pursuant to § 90.725(d) of this part.

(b) Licensees offering service on a commercial basis must maintain records of the names and addresses of each customer and the dates that service commenced and terminated. These records must be made available to the Commission upon request. Such licensees must report at the time of license renewal the number of mobile units being served.

(c) Non-commercial trunked system licensees must report at the time of license renewal the number of mobile units being served.

(d) Except for licensees of nationwide systems, all licensees must report whether construction of the facility has been completed within eight months of the date of grant of their respective licenses.

(e) All reports must be filed with the Land Mobile Branch, Licensing Division, Private Radio Bureau, Gettysburg, PA 17326.

#### § 90.739 Number of systems authorized in a geographical area.

No licensee will be authorized more than one system in the 220-222 MHz band in a single category (i.e., one non-commercial nationwide system [either 5 or 10-channel], one commercial nationwide system, one 5-channel trunked system, one data-only local system of 1-5 channels, one unrestricted non-trunked local system of 1-5 channels, or one public safety/mutual aid local system of 1-5 channels) within 64 kilometers (40 miles) of an existing system authorized to that licensee in the same category, unless the licensee can demonstrate that the additional system is justified on the basis of its communications requirements.

#### § 90.741 Urban areas for nationwide systems.

Licensees of nationwide systems must construct base stations in a minimum of 28 of the urban areas listed in the following Table within ten years of initial license grant. A base station is considered to be within one of the listed urban areas if it is within 60 kilometers of the specified coordinates.

TABLE

Urban Area	North Longitude			West Latitude		
New York, New York—Northeastern New Jersey.....	40	45	06	73	59	39
Los Angeles-Long Beach, California.....	34	03	15	118	14	28



TABLE—Continued

Urban Area	North Longitude			West Latitude		
Chicago, Illinois—Northwestern Indiana	41	52	28	87	38	22
Philadelphia, Pennsylvania/New Jersey	39	56	58	75	09	21
Detroit, Michigan	42	19	48	83	02	57
Boston, Massachusetts	42	21	24	71	03	25
San Francisco-Oakland, California	37	46	39	122	24	40
Washington, DC/Maryland/Virginia	38	53	51	77	00	33
Dallas-Fort Worth, Texas	32	47	09	96	47	37
Houston, Texas	29	45	26	95	21	37
St. Louis, Missouri/Illinois	38	37	45	90	12	22
Miami, Florida	25	46	37	80	11	32
Pittsburgh, Pennsylvania	40	26	19	80	00	00
Baltimore, Maryland	39	17	26	76	36	45
Minneapolis-St. Paul, Minnesota	44	58	57	93	15	43
Cleveland, Ohio	41	29	51	81	41	50
Atlanta, Georgia	33	45	10	84	23	37
San Diego, California	32	42	53	117	09	21
Denver, Colorado	39	44	58	104	59	22
Seattle-Everett, Washington	47	36	32	122	20	12
Milwaukee, Wisconsin	43	02	19	87	54	15
Tampa, Florida	27	56	58	82	27	25
Cincinnati, Ohio/Kentucky	39	06	07	84	30	35
Kansas City, Missouri/Kansas	39	04	56	94	35	20
Buffalo, New York	42	52	52	78	52	21
Phoenix, Arizona	33	27	12	112	04	28
San Jose, California	37	20	16	121	53	24
Indianapolis, Indiana	39	46	07	86	09	46
New Orleans, Louisiana	29	56	53	90	04	10
Portland, Oregon/Washington	45	31	06	122	40	35
Columbus, Ohio	39	57	47	83	00	17
Hartford, Connecticut	41	46	12	72	40	49
San Antonio, Texas	29	25	37	98	29	06
Rochester, New York	43	09	41	77	36	21
Sacramento, California	38	34	57	121	29	41
Memphis, Tennessee/Arkansas/Mississippi	35	08	46	90	03	13
Louisville, Kentucky/Indiana	38	14	47	85	45	49
Providence-Pawtucket-Warwick, RI/MA	41	49	32	71	24	41
Salt Lake City, Utah	40	45	23	111	53	26
Dayton, Ohio	39	45	32	84	11	43
Birmingham, Alabama	33	31	01	86	48	36
Bridgeport, Connecticut	41	10	49	73	11	22
Norfolk-Portsmouth, Virginia	36	51	10	76	17	21
Albany-Schenectady-Troy, New York	42	39	01	73	45	01
Oklahoma City, Oklahoma	35	28	26	97	31	04
Nashville-Davidson, Tennessee	36	09	33	86	46	55
Toledo, Ohio/Michigan	41	39	14	83	32	39
New Haven, Connecticut	41	18	25	72	55	30
Honolulu, Hawaii	21	19	00	157	52	00
Jacksonville, Florida	30	19	44	81	39	42
Akron, Ohio	41	05	00	81	30	44
Syracuse, New York	43	03	04	76	09	14
Worcester, Massachusetts	42	15	37	71	48	17
Tulsa, Oklahoma	36	09	12	95	59	34
Allentown-Bethlehem-Easton, PA/NJ	40	36	11	75	28	06
Richmond, Virginia	37	32	15	77	26	09
Orlando, Florida	28	32	42	81	22	38
Charlotte, North Carolina	35	13	44	80	50	45
Springfield-Chicopee-Holyoke, MA/CT	42	06	21	72	35	32
Grand Rapids, Michigan	42	58	03	85	40	13
Omaha, Nebraska/Iowa	41	15	42	95	56	14
Youngstown-Warren, Ohio	41	05	57	80	39	02
Greenville, South Carolina	34	50	50	82	24	01
Flint, Michigan	43	00	50	83	41	33
Wilmington, Delaware/New Jersey/Maryland	39	44	48	75	32	51
Raleigh-Durham/North Carolina	35	46	38	78	38	21
West Palm Beach, Florida	26	42	36	80	03	07
Oxnard-Simi Valley-Ventura, California	34	12	00	119	11	00
Fresno, California	36	44	12	119	47	11
Austin, Texas	30	16	09	97	44	37
Tucson, Arizona	32	13	15	110	58	08
Lansing, Michigan	42	44	01	84	33	15
Knoxville, Tennessee	35	57	39	83	55	07
Baton Rouge, Louisiana	30	26	58	91	11	00
El Paso, Texas	31	45	36	106	29	11
Tacoma, Washington	47	14	59	122	26	15
Mobile, Alabama	30	41	36	88	02	33
Harrisburg, Pennsylvania	40	15	43	76	52	59
Albuquerque, New Mexico	35	05	01	106	39	05



TABLE—Continued

Urban Area	North Longitude			West Latitude		
Canton, Ohio	40	47	50	81	22	37
Chattanooga, Tennessee/Georgia	35	02	41	85	18	32
Wichita, Kansas	37	41	30	97	20	16
Charleston, South Carolina	32	46	35	79	55	53
San Juan, Puerto Rico	18	28	00	66	07	00
Little Rock-North Little Rock, Arkansas	34	44	42	92	16	37
Las Vegas, Nevada	36	10	20	115	08	37
Columbia, South Carolina	34	00	02	81	02	00
Fort Wayne, Indiana	41	04	21	85	08	26
Bakersfield, California	35	22	31	119	01	16
Davenport-Rock Island-Moline, IA/IL	41	31	00	90	35	00
Shreveport, Louisiana	32	30	46	93	44	58
Des Moines, Iowa	41	35	14	93	37	00
Peoria, Illinois	40	41	42	89	35	33
Newport News-Hampton, Virginia	36	59	30	76	26	00
Jackson, Mississippi	32	17	56	90	11	06
Augusta, Georgia/South Carolina	33	28	20	81	58	00
Spokane, Washington	47	39	32	117	25	33
Corpus Christi, Texas	27	47	51	97	23	45
Madison, Wisconsin	43	04	23	89	22	55
Colorado Springs, Colorado	38	50	07	104	49	16

Note: The geographic coordinates given are from the Department of Commerce publication of 1947: "Air-line Distances Between Cities in the United States" and from data supplied by the National Geodetic Survey. The coordinates are determined by using the first city mentioned as the center of the urban area.

#### PART 97—[AMENDED]

37. The authority citation for part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

38. Paragraph (b) of § 97.201 is revised to read as follows:

#### § 97.201 Auxiliary station.

(b) An auxiliary station may transmit only on the 1.25 m and shorter wavelength bands, except the 431–433 MHz and 435–438 MHz segments.

39. 47 CFR 97.203 is amended by revising paragraph (d) to read as follows:

#### § 97.203 Beacon station.

(d) A beacon may be automatically controlled while it is transmitting on the 28.20–28.30 MHz, 50.06–50.08 MHz, 144.05–144.06 MHz, 222.05–222.06 MHz or 432.07–432.08 MHz segments, or on the 33 cm and shorter wavelength bands.

40. 47 CFR 97.205 is amended by revising paragraph (b) to read as follows:

#### § 97.205 Repeater station.

(b) A repeater may receive and retransmit only on the 10 m and shorter wavelength frequency bands except the 28.0–29.5 MHz, 50.0–52.0 MHz, 144.0–144.5 MHz, 145.5–146.0 MHz, 431.0–433.0 MHz and 435.0–438.0 MHz segments.

41. 47 CFR 97.301 is amended by revising the third line entry in the Table in paragraph (a) and the first line entry in the Table in paragraph (f) to read as follows:

#### § 97.301 Authorized frequency bands.

(a) For a station having a control operator holding a Technician, General, Advanced or Amateur Extra Class operator license:

Wavelength band	ITU—Region 1	ITU—Region 2	ITU—Region 3	Sharing requirements see § 97.303 (paragraph)
1.25 m	•	222–225	•	(a), (b).

(f) For a station having a control operator holding a Novice Class operator license:

Wavelength band	ITU—Region 1	ITU—Region 2	ITU—Region 3	Sharing requirements see § 97.303 (paragraph)
VHF	MHz	MHz	MHz	
1.25 m	•	222–225	•	(a), (b).



**§ 97.303 [Amended]**

42 47 CFR 97.303 is amended by removing and reserving paragraph (e).

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-9397 Filed 4-29-91; 8:45 am]

BILLING CODE 6712-01-M

**47 CFR Parts 73, 76**

[MM Docket Nos. 90-570 and 83-670, FCC 91-113]

**Broadcast and Cable Services;  
Children's Television Programming**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, through this action, implements the provisions contained in the Children's Television Act of 1990. The Commission, first, prescribes standards for commercial limits in television broadcast and cable programming directed to children 12 years of age and under. Second, the Commission implements the requirement that it review at renewal whether television broadcasters, over the license term, have served the educational and informational needs of children, interpreting the requirement to encompass programming directed to children up to the age of 16 that furthers their positive development in any way, including serving their cognitive/intellectual or social/emotional needs. Third, the Commission requires certification of compliance with the commercial limits and submission of a summary of broadcasters' programming response to children's educational and informational needs in licensees' renewal applications and establishes certain commercial and children's programming record-keeping requirements. Fourth, the Commission applies essentially the same standards that it applies in enforcing its other rules to violations of the regulations implementing the Act. Fifth, the Commission establishes an effective date for the rules of October 1, 1991. Under these rules, the first television broadcast renewal applicants required to demonstrate compliance would be those who file renewal applications on February 1, 1992, having license expiration dates of June 1, 1992.

**EFFECTIVE DATE:** The effective date for the rules is October 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Gina Harrison, Mass Media Bureau, Policy and Rules Division, (202) 632-7792.

**SUPPLEMENTARY INFORMATION:** The public recordkeeping burden for § 73.3526 (3060-0214) is estimated to vary from 104 hours to 130 hours per recordkeeper with an average of 106 hours 50 minutes per recordkeeper; the public reporting burden for FCC Form 303-S (3060-0110) is estimated to vary from 40 minutes to 3 hours 10 minutes per response with an average of 48 minutes per response; and the public recordkeeping burden for § 76.305 (3060-0316) is estimated to vary from 8 hours 38 minutes to 21 hours 50 minutes with an average of 13 hours 52 minutes, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Office of Managing Director, Paperwork Reduction Project, Washington, DC 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3060-0214/3060-0110), Washington, DC 20503.

This is a synopsis of the Commission's Report and Order in MM Docket Nos. 90-570 and 83-670, adopted April 9, 1991, and released April 12, 1991.

The complete text of this Report and Order is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, Downtown Copy Center, at (202) 452-1422, 1919 M Street, NW, room 246, Washington, DC 20554.

**Synopsis of Report and Order**

1. This proceeding was initiated in response to the Children's Television Act of 1990, Public Law 101-437, codified at 47 U.S.C. 303a, 303b, 394 (Act). The Act: (1) Required the Commission to adopt rules limiting the number of commercial minutes that commercial broadcast licensees and cable operators may air during children's programming; (2) required that the Commission consider in its review of television broadcast license renewals, the extent to which the licensee has met the commercial limits, and the extent to which it has served the educational and informational needs of children through its overall programming, including programming specifically designed to serve such needs; and (3) required the completion,

within 180 days of enactment<sup>1</sup> of a pending proceeding that had sought to define and resolve the treatment of "program length commercials." The notice of proposed rule making (notice), at 55 FR 50335 (December 6, 1990) solicited comment regarding various issues related to implementation of the Act's provisions.

2. Several parties raised questions regarding the constitutionality of the Act. The Commission stated that it was not obliged to question the constitutionality of an Act of Congress which it was charged with enforcing and observed that Congress had already provided a vigorous defense of its constitutionality. The Commission added that it was consistent with legislative intent, however, to interpret the Act with sensitivity to the constitutional rights of the broadcasters and cable operators it affects by affording them significant discretion when implementing the Act.

3. The Act provides that television broadcast licensees and cable operators limit the duration of advertising in children's programming to "not more than 10.5 minutes per hour on weekends and not more than 12 minutes per hour on weekdays." The Commission defined children's programming as "programs originally produced and broadcast for an audience of children 12 years old and under." This definition excludes programs originally produced for a general audience that might nevertheless be significantly viewed by children. The Commission found that the legislative history reveals that Congress intended that an age definition of 12 and under be used. It noted that there was some empirical evidence supporting an upper age limit as high as 12 years. The Commission observed that if, after some experience with using an age definition of 12 and under to implement the statute, there appears to be additional evidence that a change in the maximum age would be appropriate, the Act grants the Commission the authority to consider such modification after January 1, 1993. The Commission also clarified that if a station with an all-advertising format directs commercials for children's products to adult viewers/purchasers, these commercials would not be considered as aired in connection with "programs originally produced and

<sup>1</sup> The Act was enacted on October 18, 1990. It required the Commission to complete MM Docket No. 83-670 (Further Notice of Proposed Rule Making at 52 FR 44618, November 20, 1987) by April 16, 1991. The Act also required the Commission to prescribe rules implementing the commercial limits by that date.